Compliments of
H. C. Bunts

313

THE SCOPE

—OF THE—

MONROE DOCTRINE.

BY

H. C. BUNTS,

OF

Cleveland, O.

Reprinted by permission of

THE FORUM

OF

April, 1889.

1896:

THE O. S. HUBBELL PRINTING CO.

Cleveland.

THE SCOPE 231

—OF THE—

MONROE DOCTRINE.

BY

H. C. BUNTS,

OF

Cleveland, O.

Reprinted by permission of

THE FORUM

OF

April, 1889.

1896:
THE O. S. HUBBELL PRINTING CO.
Cleveland.

THE SCOPE OF THE MONROE DOCTRINE.

PROBABLY no feature of the fundamental policy of our government is regarded by the average American citizen as more essential to it than what is generally known as the "Monroe Doctrine." Since this so-called doctrine was first enunciated, circumstances have frequently arisen to which it might well seem applicable. During the past few years, in particular, the Monroe doctrine has been actively revived in connection with the De Lesseps Inter-oceanic Canal project; and in the platform adopted by the late Republican Convention, its purport, as popularly understood, found emphatic expression. Again and again have the circumstances connected with this famous declaration been rehearsed in Congress and published through the press; again and again has the declaration itself been made the subject of searching analysis; and yet the true meaning and scope of the declaration are very generally misapprehended. A brief account of our national affairs as they existed about December 2d, 1823, will help materially in obtaining a clear understanding of the matter, for most of the erroneous ideas current are attributable to ignorance of the circumstances in reference to which the declaration was made.

When President Monroe wrote his message of December 2d, 1823, two questions, in particular, were agitating the public mind and seemed likely to disturb our foreign relations. First, the claim of Russia to the exclusive rights of certain northern territory, as also the dispute with Great Britain concerning the northwestern boundary; Secondly, the machinations of the "Holy Alliance."

I. Both Russia and Great Britain contended that the great expanse of wilderness in the north-west was still the legitimate subject of discovery and colonization, and it was in reference to this particular subject that President Monroe in his message of December 2d, 1823, said:

"The occasion has been judged proper for asserting as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European power."

A writer in the "North American Review" for 1856,* in alluding to the language just quoted from the message, says:

"The simple intent of this clause has been perverted and magnified to an extraordinary degree, until it has been declared to contemplate a complete prohibition against acquisition by any European power of any territory upon either American continent by any means whatsoever, be it by conquest, voluntary cession, treaty stipulation, purchase, or even by succession through family alliances."

But surely this was not the intent of the declaration, and such was not the interpretation placed upon it by men whose official position was such as to render them intimately familiar with the policy of the existing administration. As throwing a strong light upon the intended scope and effect of this clause of the message, the following extract from the pen of Mr. Adams, who was then secretary of state, is apropos:

"The American continents henceforth will no longer be subject to colonization; occupied by civilized nations, they will be accessible to Europeans and each other on that footing alone.

This language is especially significant when it is borne in mind that it was written but a few months previous to the writing of the message, and that Mr. Adams was in all probability the author of the declaration. The clause was bottomed on well-established principles of international law,

* Page 469.

and was intended at the time as a declaration, against the pretensions of Russia and Great Britain, that those principles were thoroughly understood and appreciated by the United States government, and that a faithful recognition thereof would be insisted upon. Woolsey, in his treatise upon "International Law," says: †

"The territory of a nation, or that portion of the earth over which it exercises the rights of sovereignty, may have begun to pertain to it in a variety of ways: 1. From occupation of land which was before vacant, and from prescription, public and uninterrupted. 2. From occupation by colonies or other incorporation of land before occupied. 3. From conquest accepted as a fact and at length ending in prescriptive right. 4. From purchase or from gift."

At this time there was not a foot of territory comprised within the American continents not dominated over by civilized nations by virtue of acquisition under either one or all of the methods above pointed out. It would seem clear that the language of Mr. Adams above quoted could be relied upon as being the right construction of the principle sought to be asserted, namely, that civilized nations having acquired rights of dominion over all the territory embraced within the American continents, such rights were recognized by the law of nations, and that therefore, to repeat the language of Adams, "these continents were no longer subject to colonization; occupied by civilized nations, they would be accessible to Europeans and each other on that footing alone."

In view of the claims advanced by Russia and Great Britain, it would seem that all constructions of this declaration except such as limit the inhibition as having reference to colonization founded upon alleged superior rights of title, are clearly without the sanction of any rational rule of interpretation. Certainly it was not intended to proclaim to the world that the United States had arrogated to themselves exclusive guardianship over the entire western hemisphere; that no rights, by purchase or otherwise, could be acquired

† Third Ed. § 53.

by European nations upon either of the American continents. Woolsey asks: *

"What right had the United States to control Russia in gaining territory on the Pacific, or planting colonies there, when they themselves had neither territory nor colony to be endangered within thousands of miles? . . . To lay down the principle that the acquisition of territory on this continent, by any European power, cannot be allowed by the United States, would go far beyond any measures dictated by the system of the balance of power, for the rule of self-preservation is not applicable in our case; we fear no neighbors.

"To lay down the principle that no political systems unlike our own, no change from republican forms to those of monarchy, can be endured in the Americas, would be a step in advance of the congresses at Laybach and Verona, for they apprehended destruction to their political fabrics, and we do not. But to resist attempts of European powers to alter the constitutions of states on this side of the water is a wise and just opposition to interference. Anything beyond this justifies the system which absolute governments have initiated for the suppression of revolutions by main force."

Senator Lewis Cass, speaking before the United States Senate on the 28th of January, 1856, in alluding to the despatch of Henry Clay to Mr. Poinsett, our minister to Mexico, dated March 25th, 1825, said:

"From this reasoning of the distinguished Secretary it will be seen that the inhibition of future colonization on the American continents was intended to apply only to the establishment of colonies 'founded on priority of discovery and occupation,' in accordance with the custom which had obtained among European powers, while as yet the new world was an unclaimed wilderness and when the whole continent was under European subjection. This state of things, it is hoped, no longer exists. European domination has been extinguished in America, except with respect to existing colonies and dependencies, and the independent states now possess a right of eminent domain over the unoccupied soil of their territories, which estops any other nation from voluntarily planting a colony within their limits, as though the continent were still without metes and boundaries and not covered by national jurisdictions. To colonization by purchase, treaty, or lawful conquest, the Monroe declaration was not intended to apply, however it may have come to be considered in these latter days . . . To suppose that this declaration was intended as a promise, pledge, or engagement

* Ibid. § 47.

that the United States would guard from European encroachment the territory of the whole boundless continent, is greatly to misconceive the purpose of its promulgator, and to misconstrue the explicit interpretation published to the world by its author, Mr. Adams. Yet had this interpretation been couched in the most ambiguous terms, it could hardly have been more misunderstood than it would seem to be at the present day."

The administration of Mr. Polk was persistent in the advocacy of the Monroe doctrine, and by most of its supporters the claim of the United States in the north-western territory was asserted to be good and valid up to the latitude 54° 40′. Yet they subsequently relinquished this claim, and conceded to the British government all the territory north of the 49th parallel of latitude claimed by our government from the time of Monroe to the time of the Polk administration, thereby rendering it "subject to future colonization."

II. We now come to consider the second phase of this alleged doctrine, which rests upon a different clause of this same message of President Monroe. While much that has already been said is equally applicable to the branch of the subject we are about to consider, there are yet many independent considerations which attach to it. A succinct statement of the circumstances and events leading up to the declaration now uhder consideration, is found in the speech of Senator Cass above referred to, and is as follows:

"The Holy Alliance, whose principles were ascertained and matured in the congress of Vienna in 1815, between Austria, Russia, and Prussia, arrogated to itself the prerogative of determining what institutions and mode of government should be possessed by all the nations of the continent.

"The British government, for constitutional reasons, could not and did not become a party to it. The congress of the European sovereigns held at Aix la Chapelle in 1815, had among its principal objects the consideration of the relations between Spain and her revolted colonies in America, and to determine upon measures best calculated to bring about the restoration of the colonies to the allegiance they owed to the mother country. At about this time (August 16, 1823), Mr. Canning, in a conversation with Mr. Rush, the ambassador of the United States at the court of St. James, inquired of him whether the government of the United States would go hand in hand with England in resisting any combined attempt directed to their (the Span-

ish colonies') re-subjugation. This conversation led to subsequent conferences and to the exchange of confidential notes on the same subject, of which the result was, on the part of Mr. Rush, to join with Mr. Canning in a protest, in the name of the United States and Great Britain, against any interference on the part of other powers in the controversy between Spain and her revolted colonies. A few days later, Mr. Rush received information from Mr. Canning that it was proposed to hold a European congress to consult specifically on Spanish America. This and the previous information was immediately transmitted by Mr. Rush to the United States government. Correspondence between Mr. Rush and Mr. Canning followed, in which the former urged the British government to acknowledge the independence of Spanish America, and stated that upon this condition, he, in the name of the United States, would, upon his own responsibility, join in a protest against the combined attempts of the allied powers to bring about a re-subjugation. No such joint movement was made, yet it cannot be doubted, as Mr. Rush suggests, that by the early transmission to our government of the intelligence communicated by Mr. Canning respecting the designs of the allies on the Spanish American republics, the cabinet at Washington was definitely advised of the projects contemplated by the sovereigns of Europe; and it was in the prospect or possibility of an armed intervention in the independent states of this continent that President Monroe, in his message of 1823, declared to the world that 'we should consider any attempts on their part (*i.e.*, of the allied powers) to extend their system to any portion of this hemisphere as dangerous to our peace and safety'; and that, though we had thought it proper, on a principle satisfactory to ourselves, not to interpose by force in the internal concerns of Spain, yet with respect to the Spanish American republics, 'we could not view any interposition for the purpose of oppressing them or controlling in any other manner their destiny by any European power, in any other light than as a manifestation of an unfriendly disposition toward the United States.' "

This declaration, when properly construed and applied to exigencies that existed at the time it was issued, seems entirely consistent with well-defined principles of international law, and yet equally repugnant to the construction placed upon it by many who, either actuated by patriotic motives or moved by money considerations, have written and spoken upon the subject. As suggested at the commencement of this paper, much has been said and written upon this subject of late in connection with the various inter-oceanic canal projects, chiefly to the end that our gov-

erment may be induced to apply this so-called Monroe doctrine to the exclusion of any control by foreign powers over any such canal, reference being had more particularly to the Panama Canal project. It might, perhaps, be unfair to charge those active in agitating this opposition with being the hired instruments of designing individuals, associations, and corporations; rather let us say that they are "inebriated with their superabundant patriotism." For instance, on the 2d of July, 1884, the Honorable John F. Miller, Senator from California, in a speech before the Senate regarding the necessity for a navy, paid his respects to the Panama Canal scheme, and then in opposition brought forward the cherished doctrine, and said much regarding encroachments by foreign powers threatening our national interests. It is hard to gather from his speech whether his construction and application of the so-called Monroe doctrine were induced by a desire to demonstrate the necessity for a navy, or whether the necessity of a navy was not, more properly speaking, conceived through a desire to oppose the Panama Canal scheme. He says:

"We have objected to the Colombian government seeking guarantees of freedom and neutrality of the canal at the Panama Isthmus from European governments, and we have insisted that all the guarantees in respect of the free use of such canal should be found in the United States alone. We have objected to Alliances between American powers, unless such alliances should be under the supervisory control of our government. Our pretensions as the regulating force, the controlling and advisory power among nations, have been put forth with great force and persistence, sometimes with an energy and vehemence which showed the earnestness of our intentions, and the character of the active guardianship which we have assumed over the affairs of our American neighbors."

"Active guardianship" indeed! But where can be found authority for this self-appointed guardianship? Not in the language of the message which has been quoted. We find nothing there about our pretensions as the regulating force. We find nothing there warranting our claim as an "advisory power among nations." No, all that we find is in substance a calm and deliberate inhibition, First, against "foreign colonization," this having reference, as we have seen, to the

north-western territory, and intended to apply only to attempts at founding new colonies based upon priority of discovery and occupation; and, Secondly, against foreign interposition for the purpose of oppressing or controlling in any manner the destinies of the Spanish colonies. But would Senator Miller maintain that these enunciations of President Monroe were intended to apply to a case where, at the solicitation of our government, another country (even though it might constitute but a small fragment of the western hemisphere) has by solemn treaty, compact, or arrangement, founded upon considerations thoroughly satisfactory to itself, granted to a European government an easement, a right of way, a privilege in and to a small strip of its territory for uses in themselves lawful, fit, and proper? We think not. Neither do we believe that such opposition, such interference in the affairs of our neighbors, such self-appointed guardianship over their actions, such assumption of authority as that favored and advocated by Mr. Miller, is founded upon any established principle of international law. Let us see. In the first place, we quote from Woolsey's "International Law:"

"A law of nations can grow up only by the consent of the parties to it." *

"But what are the rational and moral grounds of international law? The same in general with those on which the rights and obligations of individuals in the state . . . repose." †

"Among the jural principles or foundations of international law we name . . . . those qualities or rights which are involved in the existence of the state; these may be called the rights of sovereignty. The exercise of these rights may be embraced under the head of rights of self-preservation." *

"Interference in the affairs of the powers can be justified on one of the two following grounds: First, that it is demanded by self-preservation; secondly, that some extraordinary state of things is brought about by the crime of a government against its subjects. . . . Mere suspicion or calculation of remote probabilities can be no justifying cause of action. . . . A danger resulting from the healthy and prudent growth of another state is no reason for interference whatever, and good evidence of unjust designs, drawn from conduct, ought to be obtained before any measures may be taken to prevent them." †

* Ibid. § 6.
* Ibid. § 17.
† Ibid. § 15.
† Ibid. § 42.

Mr. Adams, when president, in 1825, thus refers to Mr. Monroe's principle, while speaking in a special message of a congress at Panama:

"An agreement between all the parties represented at the meeting, that each will guard by its own means against the establishment of any future European colony within its borders, may be found desirable."

Mr. Adams, when secretary of state under Mr. Monroe, originated the principle and must have known what it meant. But the principle, even in this diluted form, was expressly repudiated by the House of Representatives, in a resolution declaring that the United States ought not to become parties with any of the South American republics to any joint declaration for the purpose of preventing the interference of any of the European powers with their independence or form of government, or to any compact for the purpose of preventing colonization upon the continent of America. What conceivable interference could be more flagrant and officious than that involved in a protest on the part of our government against the granting of a right of way by the United States of Colombia across the isthmus upon such terms and conditions as that government saw fit to interpose, especially when an opportunity was afforded to us, by enlisting in the enterprise, to avail ourselves of all the rights and privileges incident to the exercise of the rights under the grant, and to share concurrently in the profits, losses, and control of the undertaking? The cry, then, that is constantly kept up by some of our journals and public speakers, about "De Lesseps and his gang," "the traditional policy of our government," etc., so far as any principle supposed to be involved in the Monroe declaration is concerned, seems to be without any foundation or reason, and to be utterly in conflict with all recognized principles of international law. To quote again from the speech of Senator Cass:

"This declaration, originated for the purpose of meeting a particular juncture of events, finds in them alone its real purport and its justification. Wise and seasonable, with reference to the circumstances of the time at which it was promulgated, it

ceased to be of any force, even as a presidential recommendation, so soon as the crisis which called it forth passed away."

In conclusion, we would submit, First, that the so-called Monroe doctrine never became a fundamental policy of government; that neither the executive nor any other branch of our government, except Congress, has authority to determine questions of national policy; and that the United States statutes may be searched in vain for any such enactment, but that on the contrary it was expressly repudiated by the House of Representatives, by a vote of 99 to 95, on the "Panama Congress Resolution" above referred to. Secondly, that if the declaration had in fact ripened into a national policy, the popular construction thereof is not consistent with its manifest intent and spirit, as appears from the terms of the declaration itself and from a consideration of the conditions and circumstances existing at the time when it was promulgated. Thirdly, that even granting the popular understanding of the Monroe declaration to be correct, it would still be without sanction of any known principle of international law.

H. C. BUNTS.